



## EPIC PRIVACY REPORT CARD

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### BACKGROUND

After the 2008 Presidential election, the Privacy Coalition sent a letter to President Obama on the privacy priorities facing the nation. Between September 1 and September 8, 2009, EPIC posted an online poll asking the public to grade the Administration on four key privacy subjects. On every topic, a majority of the respondents gave the administration an "F." EPIC, which has championed the cause of privacy since its founding, is a little less harsh.

### ABOUT EPIC

The Electronic Privacy Information Center (EPIC) is the nation's leading privacy research and advocacy organization. EPIC focuses on emerging privacy and civil liberties issues. [www.epic.org](http://www.epic.org)

### SUMMARY GRADES

TOPIC	EPIC Grade	Poll Grade
Consumer Privacy	INC	F (65%)
Medical Privacy	A-	F (61%)
Civil Liberties	C+	F (83%)
Cyber Security	B	F (68%)

### CONSUMER PRIVACY

The Obama Administration can protect consumer privacy by supporting new laws, by safeguarding the personal information held by the federal government, and by strengthening the Federal Trade Commission (FTC), the chief agency responsible for protecting U.S. consumers. The FTC assures that free annual credit reports are available to consumers, manages the Do-Not-Call telephone registry, investigates monopolies, combats identity theft, prevents deceptive practices by businesses, and protects consumer privacy rights. At this time, the Obama Administration has introduced no new consumer privacy legislation and has left two of the five FTC Commissioner slots unfilled. Proposals are also moving forward that would make government information available to the private sector for advertising and marketing.

### EPIC Grade: INC

EPIC understands that the Administration is planning to announce two Commissioners for the FTC later this week, so we give them

an INCOMPLETE on this assignment, though we remain concerned about the absence of support for consumer privacy legislation.

## **MEDICAL PRIVACY**

One of the Obama Administration's key goals is the creation of a national medical health information network. Health information is among the most sensitive categories of personal information. Technology can secure health information by making it easier for patients to control access to their medical records. In February, the President signed legislation that included strong privacy provisions for electronic health records, including a ban on the sale of health information, use of audit trails and encryption, rights of access for patients, improved enforcement mechanisms, and support for advocacy groups to participate in the regulatory process.

### **EPIC Grade: A-**

EPIC gives the Administration full credit for creating important privacy safeguards as part of the network for electronic health records. The privacy language in the HI-TECH Act makes the bill one of the best privacy laws in years. Still, implementation of privacy safeguards remains a key challenge.

## **CIVIL LIBERTIES**

The Obama Administration inherited many troubling programs from the Bush Administration: the Patriot Act, Fusion Centers, No Fly Lists, E-Verify, and REAL ID. So far, there appears to be little change with the new Administration. There is a modified version of REAL ID called "PASS ID." The Patriot Act is still law. No Fly Lists and Fusion Centers are being expanded.

### **EPIC Grade: C+**

While the Administration inherited many flawed programs, EPIC is disappointed that there has not been more progress revising such legal doctrines as "state secrets" and such intrusive government programs as Fusion Centers and watch lists. We note progress with REAL ID and E-Verify, as well as open government and judicial appointments, but worry about the administration's performance on the renewal of the Patriot Act.

## **CYBERSECURITY**

Cybersecurity protects information in databases, communication networks, and access to Internet-based services. Privacy may be threatened when cybersecurity leads to increased surveillance of network users for other purposes. The Administration has conducted an extensive cybersecurity review. In a major speech, President Obama said that cybersecurity will not involve mass collection or monitoring of Internet communications.

### **EPIC Grade: B**

The President's commitment to safeguard privacy and network communications in the difficult area of cybersecurity is commendable. But a battle looms over efforts by Congress to extend the government's control of the Internet. The President should have named a point person on cybersecurity to represent his views in that coming debate.